

CHAPTER 9

PERFORMANCE MANAGEMENT

Section 1. **Performance Management Program.**

(a) The performance management program provides agencies and employees with opportunities for performance planning, coaching, and evaluation. The program provides for the establishment of job expectations, the measurement of job performance, the identification of employee development and taking corrective action as necessary.

(b) The Human Resources Division shall be responsible for administering the performance management program to include:

(i) The development and interpretation of rules, policies and procedures specific to performance management;

(ii) The development and implementation of components of the program as necessary (such as forms, on-line evaluation system and training);

(iii) The monitoring of agency compliance; and

(iv) Reporting to state agencies, the Governor and the Legislature as necessary.

Section 2. **Applicability.**

(a) All employees shall be evaluated as provided in this chapter with the exception of:

(i) Elected State Officials;

(ii) At-Will Agency Heads;

(iii) Contractual Employees;

(iv) Emergency Employees;

(v) Temporary Employees;

(vi) Interns;

(vii) Seasonal Employees;

(viii) Time limited Employees;

(ix) Intermittent Employees; and

(x) Other positions as approved by the Human Resources Administrator.

Section 3. **Responsibility of Agency Heads.**

Agency Heads shall be responsible for performance management within their agencies in accordance with the established State of Wyoming Personnel Rules and policies. Agency Heads shall ensure that employees are evaluated using job-related performance criteria.

Section 4. **Probation and At-Will Status.**

(a) Conducting performance phase's evaluations on probationary employees will in no way alter or change their probationary status during their probationary period.

(b) Conducting performance evaluations on at-will status employees will in no way alter or change their at-will status.

Section 5. Performance Management Evaluation Period.

(a) The performance evaluation period for all employees shall be from October 1st through September 30th, except as follows:

(i) Employees with a hire date on or before June 30th shall have a performance evaluation conducted by the end of September following hiring;

(ii) Employees with a hire date on or after July 1st through September 30th, shall have a performance evaluation conducted by the end of the second September following hiring;

(iii) Upon the completion of the first evaluation, thereafter, the evaluation period shall revert to October 1st through September 30th.

Section 6. Evaluation Date.

(a) All employees' performance evaluations shall be completed by September 30th.

Section 7. Evaluator Responsibilities.

(a) Except as provided for in subsection 10 (e) or as otherwise authorized by the Human Resources Administrator, the evaluator shall be the immediate supervisor of the employee. An evaluator shall have at least ninety (90) days of direct supervision of the employee prior to conducting an evaluation:

(i) If an evaluator changes positions after July 1st, the evaluator shall complete all evaluations on employees they have supervised for at least 90 days prior to the change of position;

(ii) If the evaluator is not available or the position is vacant, the second level evaluator shall complete evaluations for direct reports.

(b) The evaluator shall have received training on the performance management program as prescribed by the Human Resources Division. Evaluators shall be trained on the performance evaluation program prior to evaluating the performance of any employee. Evaluators shall be required to attend continuing performance evaluation education programs as deemed necessary by the Human Resources Division:

(i) When there is no qualified evaluator for an employee, the Agency Head shall determine the appropriate evaluator for that employee with approval of the Human Resources Division prior to conducting performance evaluations.

(c) The evaluator shall use the forms developed by the Human Resources Division to conduct and complete the planning, coaching and evaluation for each employee when applicable.

(d) The evaluator shall be responsible to provide written comments regarding the performance evaluation.

(e) The evaluator shall complete all procedural requirements established under the performance management program including but not limited to the phases or evaluation on the appropriate forms within the prescribed time periods.

(f) Failure to complete each applicable phase for direct reports shall result in “unsatisfactory” rating in the supervisor sections for the evaluator and may result in disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules.

Section 8. Employee Responsibility.

(a) The employee shall complete the procedural requirements established under the performance management program including:

(i) Acknowledging receipt of the evaluation. Signing the evaluation demonstrates the employee has participated in a performance evaluation meeting. It does not demonstrate agreement or disagreement with the evaluation;

(ii) If left unsigned or employee does not sign the evaluation it will be deemed incomplete.

Section 9. Agency Human Resource Contact or Designee Responsibility.

(a) Agency Human Resource Contact or Designee approved by the Human Resources Division shall ensure that employees are evaluated using job-related performance criteria and substantiated by evaluator documentation. The Agency Human Resource Contact shall complete the procedural requirements established under the performance management program including:

(i) Assign each employee to an evaluator and substitute a second level supervisor when necessary, to ensure each employee is evaluated;

(ii) Agency Human Resource contact shall notify supervisors of required training and enroll supervisors in performance management training required prior to assessing evaluations for an employee;

(iii) Agency Human Resource contact shall report on supervisor’s completion and the applicable deadlines to the Agency Head;

(iv) Retain as confidential according to the Wyoming Public Records Act (W.S. 16-4-201) and the State of Wyoming Personnel Records Policy.

Section 10. Performance Improvement Plan For Permanent Employees.

(a) Performance Improvement Plan is a written document used to guide an employee in achieving a rating above “unsatisfactory” on the annual performance evaluation.

(b) If the permanent employee's overall performance is rated as "unsatisfactory", the evaluator shall discuss and document the performance deficiencies requiring improvement and immediately but no later than fifteen (15) days of the evaluation and provide the permanent employee with a written Performance Improvement Plan which shall be considered a written letter of expectation in accordance with Chapter 7 of the State of Wyoming Personnel Rules:

(i) The duration of the first Performance Improvement Plan shall be forty-five (45) days. At the conclusion of the first Performance Improvement Plan, the evaluator shall review the permanent employee's deficiencies listed in the Performance Improvement Plan and if those deficiencies still remain, may begin or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules;

(ii) A second Performance Improvement Plan shall be developed and shall not exceed forty-five (45) days in duration and may be closed at any time prior to the expiration of the forty-five (45) days if other action is taken unless a change of evaluator has occurred in accordance with subsection (e) of this section;

(iii) At the conclusion of the second Performance Improvement Plan, the evaluator shall review the permanent employees deficiencies listed in the second Performance Improvement Plan and if those deficiencies still remain, shall begin, or continue disciplinary action in accordance with Chapter 7 of the State of Wyoming Personnel Rules.

(c) No permanent employee shall be provided more than two (2) consecutive Performance Improvement Plans within a year of the overall initial "unsatisfactory" rating:

(i) Any changes in the permanent employee's position necessitating changes in the Performance Improvement Plan that occur during the Performance Improvement Plan shall be discussed between the evaluator and the permanent employee and documented on the Performance Improvement Plan.

(d) A Performance Improvement Plan shall include:

(i) A description of the impact of behaviors or performance deficiencies on others, and if applicable, a statement of any policies, procedures, or rule violations and how to address the problem;

(ii) A description of the permanent employee's performance in areas that are rated as "unsatisfactory";

(iii) A description of the expectations for improvement in areas that are rated as "unsatisfactory";

(iv) An explanation of the consequences if the permanent employee's performance does not improve; and

(v) Offering the permanent employee any appropriate assistance in achieving satisfactory job performance.

(e) Change of Evaluator. If a permanent employee currently on a Performance Improvement Plan has a change of evaluator, the new evaluator shall immediately review the Performance Improvement Plan with the second level evaluator's assistance and the permanent employee. Upon the completion of a minimum of forty-five (45) days of direct supervision, the new evaluator shall review the permanent employee's performance on the Performance Improvement Plan in accordance with this Section .

Section 11. **Time Periods.**

(a) In computing any period of time prescribed or allowed by this chapter, the day of the act, event or default from which the designated period of time begins shall not be included. The last day of the period so computed shall be included, unless that day is a Saturday, Sunday or legal holiday.

Section 12. **Performance Appeal For Permanent Employees.**

(a) Any disputes involving the evaluation ratings given through the performance management program shall not be subject to the grievance procedures pursuant to Chapter 8 of the State of Wyoming Personnel Rules. Any disputes involving procedural compliance shall be subject to the Grievances and Appeals for Permanent Employees Chapter of the State of Wyoming Personnel Rules.

(b) Performance Appeal. A permanent employee receiving an overall rating of "unsatisfactory" shall have ten (10) days from receipt of the performance evaluation rating to submit an appeal to the permanent employee's performance evaluator. The appeal shall contain a brief and specific statement of the permanent employee's contentions as to why the rating is inaccurate and relief sought:

(i) The appeal shall include the specific facts, which establish that;

(A) The overall "unsatisfactory" rating lacks supporting documentation; and /

or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.

(c) Response to Appeal. Within ten (10) days of receipt of the permanent employee's appeal, the performance evaluator shall review the information provided by the employee, review the evaluation, and provide a written response to the permanent employee that includes a brief and specific statement from the performance evaluator responding to the specific contentions of the permanent employee:

(i) Based on the review the evaluator may revise or maintain the employee's rating(s).

(d) Appeal to Agency Head. Within ten (10) days of the evaluator's response to the employee's appeal and if the permanent employee's overall performance evaluation rating remains as "unsatisfactory," the employee shall have ten (10) days to submit in writing an appeal to the Agency Head:

(i) In the case where the permanent employee's evaluator is the Agency Head, the employee shall have ten (10) days to submit in writing an appeal directly to the Human Resource Administrator;

(ii) If the evaluator does not respond to the employee's appeal, the employee shall have fifteen (15) days from the date that the appeal was submitted to the evaluator to submit in writing a request for review to the Agency Head;

(iii) The permanent employee shall include in the appeal a brief and specific statement of the permanent employee's contentions and relief sought. The appeal to the Agency Head shall be directed specifically to the performance evaluator's evaluation and any response. The appeal to the Agency Head shall include specific facts, which establish that;

(A) The overall "unsatisfactory" rating lacks supporting documentation;
and/or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria.

(e) Response to Appeal to Agency Head. If the employee has filed a timely appeal, the Agency Head shall respond to the appeal within ten (10) days of receipt of the appeal:

(i) The Agency Head may delegate this authority in accordance with Chapter 1, Section 4(b)(ii), of the State of Wyoming Personnel Rules;

(ii) Before making a determination regarding the appeal, the Agency Head or designee, shall review the evaluation and the evaluator's response, if any and all documentation submitted by the performance evaluator and the employee;

The Agency Head or designee shall make a determination as to whether; (i)

(A) The overall "unsatisfactory" rating lacks supporting documentation;
and/or

(B) The evaluator disregarded factors or circumstances, which substantially support the permanent employee's position and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria;

(iii) The determination shall be in writing and may direct the evaluator to make any appropriate adjustment(s) to the employee's evaluation.

(f) Appeal to the Human Resources Administrator. Within ten (10) days of receipt of the Agency Head or designee's response to the employee's appeal, the employee may appeal, in writing, the Agency Head or designee's response to the Human Resource Administrator:

(i) If the Agency Head does not respond to the employee's appeal within ten (10) days of the appeal, the employee shall have fifteen (15) days from the date that the appeal was submitted to the Agency Head to appeal, in writing, to the Human Resources Administrator;

(ii) The Human Resources Administrator shall have fifteen (15) days after receipt of all documents and necessary information to make a determination on the employee's appeal. The Human Resources Administrator shall review the evaluation, the evaluator's response, if any, and all documentation submitted by the performance evaluator, the employee and the Agency Head or designee;

(iii) If the Human Resources Administrator determines that the Agency Head or designee's response was contrary to the State Personnel Rules, state or agency policies, or law, or finds;

(A) The overall "unsatisfactory" rating lacks supporting documentation; and /
or

(B) The evaluator disregarded factors and circumstances, which substantially support a higher rating and thereby deprived the employee of a performance evaluation rating based on job-related performance criteria, the Human Resources Administrator shall require the Agency Head to correct the evaluation;

(iv) Should the Human Resources Administrator determine that there is a conflict of interest a designee shall be appointed by the Governor to review the appeal.

(g) Compliance with Procedure. If an employee does not comply with the deadlines in this section, the employee shall forfeit rights granted by this section for further appeal.